

C O N F I D E N T I A L

WEEKLY HOT ISSUES REPORT FOR RA/DRA

WEEK ENDING DECEMBER 5, 2014

OFFICE OF ECOSYSTEMS PROTECTION AND REMEDIATION

This Week –

SOUTH DAKOTA’S PROPOSED STATEWIDE MERCURY TMDL: More than a decade ago, the EPA updated the recommended water quality 304(a) criteria for mercury to a tissue based value of 0.3 mg/kg. Since that time, we have been encouraging states to update their water quality standards and adopt this recommendation. After 10 years, South Dakota is considering adoption of the tissue value but is concerned that there will be a hundred new listings for mercury on their 2016 303(d) list. They are proposing developing a statewide mercury TMDL to address all current and future impairments before the 2016 303(d) list is published for public comment. If this TMDL is approved, no mercury listings will appear on the 303(d) list but will instead be identified in category 4a (impaired water with a TMDL complete) in their 2016 Integrated Report. South Dakota does not intend to adopt the new 0.3 mg/kg mercury criterion unless Region 8 agrees to making the statewide mercury TMDL a priority for technical support, review and the EPA approval in FY15. It should be noted that currently, Region 8’s TMDL program is at reduced staffing levels and must carefully consider workload priorities. The Region 8 Water Quality Unit has several concerns about this proposal and has expressed these to South Dakota’s management. First, South Dakota does not plan to use the 0.3 mg/kg mercury water quality standard to issue consumption advisories and hence it is unclear how the public will be informed of the extent of the mercury listings in South Dakota unless these waters appear on the 303(d) list for some period of time. South Dakota’s plan circumvents listing mercury impairments on the 303(d) list. Second, based on air depositional modeling, it appears that much of the mercury in South Dakota originates outside the state; hence, a TMDL document could be produced and have limited environmental utility unless South Dakota makes a fair attempt to identify even small sources of mercury within the state that could benefit from source control implementation. For example, South Dakota could evaluate lake management techniques that minimize mercury methylation and bioaccumulation in fish tissue. Finally, other statewide mercury TMDLs that have been produced in the nation are of relatively high quality and technical rigor. In general, South Dakota’s previous TMDLs have been rudimentary though approvable. Sandra Spence of the Water Quality Unit in Region 8 has been in contact with South Dakota’s water quality standards/TMDL program and has indicated that in order for this approach to succeed and become a priority for the Region, it is important that South Dakota produce a document that: 1) is of comparable quality to other statewide TMDLs produced and approved across the nation; 2) makes a true attempt at identifying and controlling in-state sources of mercury including lake management techniques to reduce methylation; and 3) creates opportunities for real public awareness and involvement in the TMDL development and mercury listings. South Dakota’s public outreach

efforts to date have been minimal for TMDLs. Region 8 management may be contacted by South Dakota management on this topic.

Contact: Sandra Spence, WQU Chief, 312-6947

Next Week –

EPA TO ATTEND A MONTANA DEQ-HOSTED PUBLIC MEETING FOR THE COLUMBIA FALLS ALUMINUM COMPANY SITE: On December 11, 2014, representatives from Region 8's Superfund Site Assessment Program will attend a DEQ-hosted public meeting to provide an update on agency actions at the Columbia Falls Aluminum Company site near Columbia Falls, Montana. Prior to the meeting EPA and DEQ will brief staff from the Flathead County Health Department, the Columbia Falls City Manager, and staff from Senator Tester's office and Senator Elect Daines' office. At these meetings DEQ will provide an update on negotiations with Columbia Falls Aluminum Company, LLC, the current site owner, to complete a Remedial Investigation, Risk Assessment and Feasibility Study under state authority. EPA will update the community on the agreed parallel path of preparing documents necessary to propose the site to the National Priorities List (NPL) in the event DEQ is unable to reach agreement with the PRPs. If available at the time of the meeting, EPA will also discuss results from domestic well sampling for cyanide conducted by the Emergency Response Program in late November, 2014. The November sampling was conducted in response to detecting cyanide in two domestic wells in September, 2013. No cyanide was detected in domestic wells in an April, 2014 sampling event. *Information only, no action required by RA/DRA.*

Contacts: Rob Parker 303-312-6664 or Victor Ketellapper 303-312-6578

OFFICE OF ENFORCEMENT, COMPLIANCE & ENVIRONMENTAL JUSTICE

This Week –

REGION 8 ISSUES CERCLA INFORMATION REQUEST AND GENERAL NOTICE LETTER TO DEPARTMENT OF DEFENSE: On December 2, 2014, Region 8 issued a request for information and general notice letter to the U.S. Department of Defense (DOD) in connection with a CERCLA removal action the North Salt Lake Haz Mat Site, located in Salt Lake City, Utah. The cleanup, finished in December, 2013, removed approximately 10,000 containers of hazardous materials ranging in size from 1 pint to 55 gallons. Detonation cords, blasting caps, and other explosives components were also removed. Many of the containers and materials are believed to have come from Hill Air Force Base and Tooele Army Depot, both located in Utah. Region 8 will begin negotiating a cost recovery settlement with DOD.

Contacts: Steven Moores (legal), 312-6857; Mike Rudy (technical), 312-6332.

THE EPA SENDS CERCLA GENERAL NOTICE LETTERS TO STONE CASTLE RECYCLING POTENTIALLY RESPONSIBLE PARTIES:

Confidential Attorney Client Communication/Do Not Release

LE / Ex. 7(a)

LE / Ex. 7(a)

Contact(s): Amelia Piggott (legal), 312-6410; Scott Wilder (technical), 206-553-6693; Steve Merritt (coordinator), 312-6416.

EPA NEGOTIATES A PRE-FILING PENALTY SETTLEMENT FOR DRINKING WATER VIOLATIONS AT THE EDEN SALOON PUBLIC WATER SYSTEM, EDEN, WYOMING:

EPA Region 8 has negotiated a pre-filing penalty settlement with Eden Saloon, Inc., as the owner and/or operator of the Eden Saloon public water system for violations of the Safe Drinking Water Act (SDWA), the National Primary Drinking Water Regulations (NPDWRs), and an underlying Administrative Order (Order). The EPA issued the Order on May 10, 2012, requiring Eden Saloon to monitor for total coliform bacteria, source water, and nitrate; to submit a plan and schedule to the EPA within 30 days if the System has a total coliform maximum contaminant level (MCL) violation; complete public notice of violations; and report future violations to the EPA. Eden Saloon violated the Order by failing to sufficiently monitor for total coliform bacteria repeat and additional routine samples after a total coliform positive result in September 2012, January 2014, and July 2014; failing to timely monitor the source water in July 2012 and December 2013; failing to timely submit a plan and schedule after a total coliform MCL violation in December 2013, and failing to report violations to the EPA. Eden Saloon will pay a \$1,000 penalty for these violations of the Order.

Contact(s): Marc Weiner (legal), 312-6913; Kathelene Brainich (technical), 312-6481.

OFFICE OF PARTNERSHIPS AND REGULATORY ASSISTANCE

This Week –

UTE MOUNTAIN UTE TRIBE MEETS WITH OGC’S AVI GARBOW: On Monday, December 1, 2014, the Ute Mountain Ute Tribe met with OGC at their Tribal Attorney Listening Session. During the meeting, Celene Hawkins, attorney for the Ute Mountain Ute Tribe, raised some issues regarding EPA’s ongoing engagement with the Tribe on the White Mesa Mill. Specifically, she raised concerns related to the current Subpart W rulemaking and foreshadowed similar concerns in the upcoming rulemaking under 40 CFR 192 (“Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings”). Avi Garbow indicated that he would look into her concerns and get back to her. Region 8 ORC and the Air Program have been asked by the OGC attorney, Anthony Moffo, to attend a meeting on December 4, 2014, to explain the history of our engagement with the Tribe on White Mesa so that he can report back to Avi. *Information only; no action required by the RA/DRA.*

Contacts: Carl Daly, 312-6416; Scott Jackson, 312-6107

Next Week –

DEFINITION OF SOLID WASTE RULE TO BE SIGNED DECEMBER 10, 2014: The Definition of Solid Waste (DSW) final rule is scheduled to be signed by December 10, 2014. EPA’s Office of Resource Conservation and Recovery (ORCR) will issue a press release, and post the rule and factsheet on the web. ORCR will offer webinars on the rule to interested stakeholders in early 2015. The rule, which contains revisions to the October 2008 Final DSW Rule, is intended to increase transparency,

oversight and accountability for hazardous materials recycling. Because the 2008 Final DSW Rule contained less stringent provisions for managing recyclable hazardous materials, it was not mandatory that the states adopt the rule. Within Region 8, only South Dakota adopted the 2008 rule in its entirety. The revisions included in the final revised rule are more stringent than the 2008 DSW rule so any state which adopted the 2008 DSW rule will be required to modify their program. States that have not adopted the 2008 DSW rule will not be required to adopt the final revised rule, however, some of the Region 8 states have discussed adopting some of the definitions, documentation and tracking in the revised final rule. *Information only; no action required by the RA/DRA.*

Contacts: Nancy Morlock, 312-6421 or Chris Cosentini, 312-6231

MONTANA OPERATIONS OFFICE

This Week –

THE EPA WILL ISSUE AN INFORMATIONAL LETTER TO THE BLACKFEET TRIBE FOR DRINKING WATER VIOLATIONS AT THE BLACKFOOT PUBLIC WATER SYSTEM LOCATED ON THE BLACKFEET RESERVATION IN MONTANA:

The EPA is issuing the informational letter regarding violations at the Blackfoot public water system for exceeding the total coliform maximum contaminate level (MCL) during August 2013, July 2014 and August 2014; failing to take a source water sample following a positive total coliform sample in August 2014; failing to monitor for total coliform bacteria (TCR) during April 2014; and failing to provide public notice for the TCR MCL violations. ECEJ is coordinating closely with the Drinking Water Program, Tribal Assistance Program and ORC. *Information only, no action needed.*

Contact: Sienna Meredith 406-457-5026 (technical); Amy Swanson 303-312- 66906 (legal)